

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

HELENA TROPE a/k/a Linda Trope	:	
<i>et al.</i>	:	Case No.: 1:13-cv-00183-RDB
	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
NEW ENGLAND COMPOUNDING	:	
PHARMACY, INC., <i>et al.</i>	:	
	:	
Defendants.	:	

MOTION FOR LEAVE TO AMEND COMPLAINT

COME NOW Plaintiffs, by and through undersigned counsel, and respectfully move for leave to amend the Complaint pursuant to Rule 15 of the Federal Rules of Civil Procedure. In support of this motion, Plaintiffs state the following:

1. Rule 15(a)(1)(A) states that a “party may amend its pleading once as a matter of course within 21 days after serving it.” Fed. R. Civ. P. 15(a)(1)(A).
2. Plaintiffs served the Complaint and summons upon all Defendants on February 1, 2013 via certified mail, return receipt.
3. Therefore, Plaintiffs ask to be permitted to file the attached Amended Complaint. Exhibit 1. A red line edited version is attached as Exhibit 2.
4. Rule 15(c)(1)(A) further states that amendment to a pleading relates back when “the law that provides the applicable statute of limitations allows relations back.”
5. Plaintiffs claim for negligence and products liability arose on or about September 21, 2012. Maryland maintains a three year statute of limitation for such causes of action, and therefore the Amended Complaint relates back to the date of the original filing.

6. Therefore, Plaintiffs seek leave to amend the Complaint pursuant to Rule 15(c)(1)(A) of the Federal Rules of Civil Procedure.
7. Finally, Rule 15(c)(1)(C) states that an amendment relates back when “the amendment changes the party or the naming of the party against whom a claim is asserted...”
8. Plaintiffs seek only to amend the name of the Defendant Medical Sales Management, SW Inc. to name the proper party Medical Sales Management, Inc.
9. Rule 15(c)(1)(B) is satisfied because the amendment asserts a claim out of the same occurrence of what was identified in the original complaint. See Fed. R. Civ. P. 15(c)(1)(C).
10. Furthermore, Plaintiffs have given notice of the action to counsel for Medical Sales Management, Inc. and Medical Sales Management, Inc. knows and should now that the action will be brought against it.

WHEREFORE, for the reasons stated above pursuant to Rule 15 of Federal Rules of Civil Procedure, Plaintiffs ask for leave to amend their Complaint and ask this Court to docket the amended Complaint attached as Exhibit 1.

PAULSON & NACE

/s/ Jonathan B. Nace

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Counsel for Plaintiffs

Certificate of Service

This is to certify that on this 20th day of February, 2013, I caused a copy of the foregoing to be served via ECF service upon the US District Court for the District of Maryland, and will send a copy via certified mail upon all parties, including Medical Sales Management, Inc.

/s/ Jonathan B. Nace
Jonathan B. Nace, Esquire # 18246